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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,469	08/21/2003	Shaun Peltier	1858.001US1	8509
21186	7590	06/27/2005	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402-0938			MAUST, TIMOTHY LEWIS	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/646,469

Applicant(s)

PELTIER, SHAUN

Examiner

Timothy L. Maust

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 7, 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 1, 5, 6, 8-12, 15-23, 26-29 and 31-36 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 24, 25 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The Examiner inadvertently failed to address newly added claims 33-36 in the Office Action dated 5/17/05. The following action will address the above claims and the time period restarted.

#### ***Claim Objections***

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 35 (2<sup>nd</sup> occurrence) should be renumbered 36.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 8-12, 15, 19, 21-23, 26, 27 and 32-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Scholle et al. (4,417,607).**

In regard to claims 8-10, the Scholle et al. reference discloses a “system” comprising a “sanitary bag” 24 having a “dispensing outlet” 25 that also acts as the

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“input portion”, a “water input member” 30. In regard to the relative terminology of an “end-user”, the product may be used at the point it comes off the production line.

Further, the bag is suitable for carrying, storing, and dispensing fluids and other flowable products (i.e., water). Furthermore, the bag can be prevented from reuse by throwing it in the garbage after use.

In regard to claim 11, for the specifics of the “coupling member” see Figures 14-17 in incorporated reference 4,120,134 (Scholle).

In regard to claim 12, the “valve” taken in its broadest sense can be defined by the cap that closes inlet/outlet 25. The cap acts as a valve by opening and closing the inlet/outlet 25.

In regard to claims 21-23, 26, 27 and 32-36, the method as claimed would be inherent during normal use and operation of the device.

**Claims 15-18** are rejected under 35 U.S.C. 102(b) as being anticipated by Goodrich et al.

The Goodrich et al. reference discloses a “sanitary bag” having a “flexible outlet” 27 and 42, an “insulated container” 46 having a “spigot” and “pinch plug” (absent further structure) 47, as claimed. The bag is capable of being filled by any conventional kitchen faucet or garden hose through outlet 42 by attaching it to the faucet by an end user.

**Claims 15 and 18-20** are rejected under 35 U.S.C. 102(b) as being anticipated by Weinreich et al.

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In regard to 15, the Weinreich et al. reference discloses a "sanitary bag" 14 having an "outlet tube" 16 (absent further structure) and a "water input member" (see col. 3, lines 60-69. Further, the reference describes milk filling but discloses that the bag is suitable for carrying, storing, and dispensing fluids and other flowable products (i.e., water).

In regard to claims 18-20, the "bag" 14 is capable of being filled with a garden hose by an end user.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 5, 6, 8-11, 15-17, 19, 21-23, 26-29 and 31-36** are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodrich et al in view of Scholle et al. ('607).

In regard to claims 1, 5, 6, 8-11, 15-17, 19, 29 and 31 the Goodrich et al. reference discloses a "sanitary bag" having a "flexible outlet" 27 and 42, an "insulated container" 46 having a "spigot" and "pinch plug" (absent further structure) 47, but does not disclose being filled by a water input member. However, the Scholle et al. reference discloses a system for sanitarily filling many similar sanitary bags via "input member" 30. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fill the Goodrich et al. sanitary bags using input member

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30 (if not already) as, for example, taught by Scholle et al. in order to sanitarily fill many bags at once.

In regard to claims 21-23, 26-28 and 32-36, the method as claimed would be inherent during normal use and operation of the device.

### ***Allowable Subject Matter***

Claims 4, 7, 13, and 14 are allowed.

Claims 2, 3, 24, 25 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Fitzgerald et al. reference discloses a sanitary bag filling system similar to Applicant's device.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Tue. - Thur. 6:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Timothy L Maust  
Primary Examiner  
Art Unit 3751

Tlm